

REMARKS

In the final Office Action¹ mailed July 6, 2007, the Examiner rejected claim 3 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejected claims 1-3 and 6 under 35 U.S.C. § 102(b) as being anticipated by Sheppard et al. (U.S. Patent No. 6,143,247, hereafter "Sheppard"); and rejected claims 1- 6 under 35 U.S.C. § 102(b) as being anticipated by Hubbard et al. (U.S. Patent No. 6,338,820, hereafter "Hubbard").

By this Amendment, Applicant proposes to amend claims 1, 3, and 4. Support for the amendment to claim 1 can be found in the specification at, for example, paragraph [0047] of this published application. Claims 1-6 remain pending and under current consideration.

As the Examiner suggested, Applicant has amended claim 3 to recite "the mutual reaction process." Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 3 under 35 U.S.C. § 112, second paragraph.

Applicant respectfully traverses the rejection of claims 1-3 and 6 under 35 U.S.C. § 102(b) as being anticipated by Sheppard.

Claim 1, as amended, recites a bioassay substrate comprising a plurality of detection units, each detection unit comprising, for example, "a data-detecting area . . . ; and a servo area formed in the detection unit without overlapping the data-detecting area," (emphasis added). Sheppard fails to disclose at least the claimed servo area.

¹ The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

The Examiner acknowledged, “Sheppard et al further teach the detection chamber of Figure 1D (column 21, lines 45-55), wherein the location of the disk having the detection chamber further comprises encoded data in the form of pits beneath the detection area (column 22, lines 1-10),” (emphasis added). Office Action at pages 3 and 4. Accordingly, Sheppard teaches the encoded data is formed beneath the detection area, or overlaps the detection area (as shown in Figure 1D of Sheppard), which contradicts “a servo area formed in the detection unit without overlapping the data-detecting area,” as recited in claim 1. For at least this reason, Sheppard fails to teach each and every element of claim 1, and cannot anticipate claim 1. Sheppard also cannot anticipate claims 2, 3, and 6 at least because claims 2, 3, and 6 depend from claim 1, and require all the elements of claim 1.

Applicant respectfully traverses the rejection of claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by Hubbard.

Claim 1, as amended, recites a bioassay substrate comprising a plurality of detection units, each detection unit comprising, for example, “a data-detecting area . . . ; and a servo area . . . , the servo area being arrayed with the data-detecting area along a circumferential direction,” (emphasis added). Hubbard fails to teach at least the claimed servo area.

Hubbard, at column 20, lines 21-32, discloses,

Referring to FIG. 9B, a solid angle sector 92 is shown, which includes a plurality of concentrically arranged non-interconnected reaction sites 80 aligned radially from spindle [90]. Each of reaction sites 80 has locating mark 82, which is depicted as comprising two bars. The use of this identifying mark is intended to be merely exemplary, and other identifying marks, such as indexing marks, bar codes, number codes, color codes, or the like, may also be employed. Further, an identifying

mark may consist of a combination of characters or markings, or both, and the position of the mark with respect to the center of substrate 10 or with respect to spindle 90.

(Emphasis added). Accordingly, Hubbard discloses reaction sites 80 are aligned radially from spindle 90, and each of reaction sites 80 has a locating mark 82. Hubbard does not literally disclose the relative positions of reaction sites 80 and locating marks 82. As shown in Figure 9B, Hubbard discloses each locating mark 82 radially aligned with its corresponding reaction site 80. Accordingly, Hubbard cannot constitute a teaching of "the servo area being arrayed with the data-detecting area along a circumferential direction," as recited in claim 1. For at least this reason, Hubbard fails to teach each and every element of claim 1, and cannot anticipate claim 1. Hubbard also cannot anticipate claims 2-6 at least because claims 2-6 depend from claim 1 and require all the elements of claim 1.

For at least the above reasons, claims 1-6 are distinguishable over the applied references. Accordingly, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 102(b).

Because the outstanding Office Action is made final, Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-6 in condition for allowance. Applicant submits that the proposed claim amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Amendment should allow for immediate action by the Examiner.

Alternatively, Applicant submits that the entry of the amendments would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.


In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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